

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

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|--------------------------|---|-------------------|
| RAYMOND P. BOIVIN, |) | |
| |) | |
| Plaintiff |) | |
| |) | |
| v. |) | Civil 97-CV-177-B |
| |) | |
| JEFFREY MERRILL, et al., |) | |
| |) | |
| Defendant |) | |

ORDER AND MEMORANDUM OF DECISION

Brody, District Judge

This order concerns a jury verdict rendered in a Section 1983 case brought by Plaintiff Raymond P. Boivin (“Plaintiff”) against Defendant Earl Albert (“Albert”), a correctional officer at Maine Correctional Institution-Warren (“MCI-Warren”), and Albert's supervisor, Defendant Donald Black (“Black”).¹ In that action, Plaintiff alleged that while he was a pretrial detainee at MCI-Warren his due process rights were violated when Albert, on Black’s orders, placed him in a restraint chair, wrapped him in a security blanket, and covered his mouth with a towel resulting in a loss of consciousness. On January 20, 1999, the jury found for Albert and against Black, awarding Plaintiff one dollar in nominal damages. Before the Court is Black's Motion for Judgment as a Matter of Law. For the reasons set forth below, Defendant's Motion is DENIED.

I. DISCUSSION

Black argues that he is entitled to judgment as a matter of law pursuant to Fed. R. Civ. P. 50(b) because (i) the verdict in Albert's favor demonstrates that the jury rejected Plaintiff's claim

¹ On June 16, 1998, the Court entered an order accepting the Magistrate Judge’s Recommended Decision dismissing Defendants Merrill, Magnusson, and Riley.

that Black violated Plaintiff's due process rights by ordering Albert to place a towel over Plaintiff's face, and (ii) Plaintiff did not present evidence to allow a reasonable jury to conclude that Black violated Plaintiff's due process rights when he ordered Plaintiff placed in a restraint chair and wrapped in a security blanket.

With regard to Black's first argument, the Court finds that it cannot infer, as a matter of law, that by returning a verdict for Albert the jury necessarily concluded that Black did not violate Plaintiff's due process rights when he ordered Albert to place a towel over Plaintiff's face. To make out a due process claim, a pretrial detainee must demonstrate that the defendant intended to punish him. See O'Connor v. Huard, 117 F.3d 12, 16 (1st Cir. 1997). As Plaintiff points out, the jury may have found that Albert's intent in using the towel was not punitive, but that Black's intent in ordering Albert to use the towel was punitive.

As for Black's second argument, the Court is satisfied that based on the evidence presented at trial, a reasonable jury could have concluded that Black's order to place Plaintiff in a restraint chair, or his order to wrap him in a security blanket, or both, were given with the intent to punish Plaintiff. See Hendricks & Assoc., Inc. v. Daewoo Corp., 923 F.2d 209, 214 (1st Cir. 1991) (a jury verdict may be set aside "only after a determination that the evidence could lead a reasonable person to only one conclusion, namely, that the moving party was entitled to judgment") (internal citations omitted).

II. CONCLUSION

For the reasons discussed above, Defendant's Motion for Judgment as a Matter of Law is DENIED.

SO ORDERED.

MORTON A. BRODY
United States District Judge

Dated this 24th day of March, 1999.

In support of his second argument, Black asserts that his orders to place Plaintiff in a restraint chair and wrap him in a security blanket “could plausibly have been thought necessary.” (Black’s Mot. J. Matter of Law at 4, 5.) A jury verdict may be set aside, however, “only after determination that the evidence could lead a reasonable person to only one conclusion, namely, that the moving party was entitled to judgment.” Hendricks & Assoc., Inc. v. Deawoo Corp., 923 F.2d 209, 214 (1st Cir. 1991) (internal citations omitted). Here, the Court is satisfied that based on the evidence presented at trial, a reasonable jury could have concluded that either or both of Black’s orders were given with the intent to punish Plaintiff.